

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

In re:	:	Chapter 11
	:	
THE IT GROUP, INC., et al.,	:	Case No. 02-10118 (MFW)
	:	Jointly Administered
Debtors.	:	
<hr style="border: 0.5px solid black;"/>		
IT LITIGATION TRUST,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 04-1268-KAJ
	:	
DANIEL A. D'ANIELLO, et al.,	:	
	:	
Defendants.	:	

**ORDER**

At Wilmington this 3<sup>rd</sup> day of **August, 2006**.

A telephonic conference was held in the above captioned matter and related matters *Thomas L. Payne, et al. v. Anthony J. DeLuca, et al.*, U. S. District Court, West District of Pennsylvania, C.A. No. 02-1927; *Howard G. Glover, et al. v. Anthony J. DeLuca, et al.*, U.S. District Court, Western District of Pennsylvania, C.A. No. 0288; *Staro Asset Management, LLC v. Anthony J. DeLuca, et al.*, U.S. District Court, Western District of Pennsylvania, C.A. No. 02-0886; *Highland Capital Mgmt, L.P., et al. v. TC Group, et al.*, Delaware Superior Ct. No. 04C-06-068-RRC; *Highland Capital Mgmt., L.P., et al. v. Ernst & Young, et al.*, Dis. Ct. Tx, C. A. No. 03-04530; and *Federal Insurance Co. v. D'Aniello*, U.S. District Court, Western District of PA, C. A. No.

05-0305 with counsel on behalf of the parties in attendance. The purpose of the teleconference was to determine the interest in mediating some or all of these matters, particularly since the defendants are the same in each case. As a result of discussions with counsel and due to the procedural status of the various cases,

IT IS ORDERED that:

1. Mediation remains tentatively set in the IT Litigation Trust and Highland Capital Management cases. The more likely dates for mediation shall be as follows: Highland Capital Management on **Tuesday, August 22, 2006 beginning at 9:00 a.m.** and IT Litigation Trust on **Wednesday, August 23, 2006 beginning at 9:00 a.m.**
2. A telephonic conference is scheduled for **Monday, August 7, 2006 at 10:00 a.m. EST** in the Highland Management matter **only. Counsel for Highland Management shall initiate this teleconference.** The purpose of the teleconference is to confirm whether this will proceed to mediation on the date as noted in ¶1. AIG shall participate in this teleconference.
3. A telephonic conference is scheduled for **Tuesday, August 8, 2006 at 5:00 p.m. EST. Counsel for plaintiff in the IT Litigation matter shall initiate the teleconference.** All counsel for all insurers whose coverage is potentially implicated in this matter shall participate. The purpose of the teleconference is to determine whether mediation in this case shall proceed as scheduled under ¶1.
4. Since the related cases involve matters in other jurisdictions, Richard Wayne, Esquire or Thomas Glass, Esquire shall provide a copy of this Order to counsel in the related cases.

5. Should mediation proceed in either matter, the submissions shall be due on or before **Tuesday, August 15, 2006**. During the teleconferences noted above, the submissions and page limitations shall be discussed, which will most likely result in a modification of the Order of June 20, 2006.

6. All mediation submissions shall be **double-spaced, 12 pt. font**. The mediation statements are confidential and shall not be exchanged among the parties and shall not be filed or efiled with the Clerk's Office, but **the original and one (1) copy shall be delivered to the Clerk's Office in an enveloped addressed to Judge Thyng marked "Confidential Mediation Statement."**

7. The submissions shall include:

- a. The status of settlement negotiations, suggestions or concepts for settlement, and the party's understanding why settlement has not been reached, and how the Court may assist the parties in reaching a resolution.
- b. The identity of counsel and representatives of the parties who will attend the mediation.
- c. Attorneys' fees and costs to date and projected or future fees and costs, including expert fees, through trial.

8. A teleconference is scheduled for **Monday, October 16, 2006 at 5:00 p.m. EST. Counsel for plaintiff in the IT Litigation Trust matter shall initiate the teleconference call**. The purpose of the teleconference is to confirm the procedural and settlement status of the various matters to determine which cases, if any, are appropriate for mediation or continued mediation and to reserve dates for mediation or continued mediation. Counsel for plaintiffs in the related cases and

counsel for defendants shall advise plaintiff's counsel in the IT Litigation Trust matter no later than **Thursday, October 12, 2006**, who on behalf of their respective clients, will be participating in the **October 16, 2006** teleconference. Plaintiff's counsel in the IT Litigation Trust matter shall fax or email the Magistrate Judge a list of the participants prior to the scheduled teleconference.

Should the IT Litigation Trust matter resolve prior to the teleconference date noted herein, counsel for plaintiff shall immediately advise the Magistrate Judge and the Court shall designate another attorney to organize the teleconference.

9. No communication with the Magistrate Judge shall be efiled in this court or any court. Communication shall be by telephone, email or fax. Any communication sent by fax need not be followed by an original.

Local counsel are reminded of their obligations to inform out-of-state counsel of this Order. To avoid the imposition of sanctions, counsel shall advise the Court immediately of any problems regarding compliance with this Order.

/s/ Mary Pat Thyng  
UNITED STATES MAGISTRATE JUDGE